

4/23/02

THIS DISPOSITION IS  
NOT CITABLE AS  
PRECEDENT OF THE  
TTAB

Paper No. 12  
DEB

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Advanced Ordnance Corporation

Serial No. 75/758,240

Donald S. Holland of Holland & Bonzagni, P.C. for Advanced Ordnance Corporation.

Barbara A. Gaynor, Trademark Examining Attorney, Law Office 104 (Sidney I. Moskowitz, Managing Attorney).

Before Cissel, Chapman and Bucher, Administrative Trademark Judges.

Opinion by Bucher, Administrative Trademark Judge:

Advanced Ordnance Corporation seeks registration on the Principal Register of the term I GUN (with a disclaimer of the word "GUN" apart from the mark as shown) for goods identified as "firearms, namely, handguns, rifles and shotguns with personalized recognition parts therefor," in International Class 13.<sup>1</sup>

The Examining Attorney refused registration under Section 2(e)(1) of the Act on the ground that applicant's

---

<sup>1</sup> Application Serial No. 75/758,240 was filed on July 23, 1999, based upon applicant's allegation of a *bona fide* intention to use the mark in commerce.

mark is merely descriptive of the goods specified in the application because in the context of "smart" firearms, the letter "I" placed before the generic word "GUN" will immediately be perceived by prospective consumers as an abbreviation for "intelligence" or "intelligent," as in "intelligent gun."

Attached to the Office actions in which the refusal to register was made and maintained were copies of excerpts from published articles retrieved from the Lexis/Nexis database which show that the abbreviation "I," when used in conjunction with microprocessor-controlled goods, is frequently an abbreviation for "intelligent."

Applicant responded to the refusal to register with arguments that its proposed mark is not merely descriptive, but rather only suggestive. Applicant contended that the Office has allowed other marks of third parties where "I" precedes other matter, as well as marks wherein the letter "I" is registered alone.

The Trademark Examining Attorney was not persuaded, and she made the refusal to register final in her second Office action. In response to applicant's request for reconsideration, she attached to that action further evidence from the Lexis/Nexis database demonstrating a variety of usages where the letter "I" precedes the name of

a product having microprocessor controls, with further clarification in each case that the letter "I" stands for "intelligent."

Applicant timely filed a Notice of Appeal on July 30, 2001. Both applicant and the Trademark Examining Attorney filed briefs, but applicant did not request an oral hearing before the Board.

We affirm the refusal of registration.

A mark is merely descriptive of the goods on which it is used if it immediately and forthwith conveys information about the product's character, function, features or purpose. See In re Bright-Crest, Ltd., 204 USPQ 591 (TTAB 1979). It is not necessary that a term describe all of the purposes, functions, characteristics or features of the goods in order for it to be merely descriptive of them. See In re H.U.D.D.L.E., 216 USPQ 358 (TTAB 1982).

The Trademark Examining Attorney has placed into the record portions of applicant's Web site:

The iGun is a precision-machined firearm with a sophisticated computer and recognition system housed inside. Many people have said that it is a gun with a laptop computer inside and they are not far off...

The iTC iGun™ (patents pending) works on mechanisms that block the trigger while the gun is at rest. The user wears a ring with a special system that triggers power to the

iGun system when the ring comes in close range to the normal ring-finger placement on the firearm's stock. When the iGun senses that the ring is near enough, it compares a unique code (billions of combinations) from the ring to the gun to see if there is a match. If the code matches and certain other conditions are met, an electric current from the battery bank actuates a mechanism to unblock the trigger... .

<< <http://www.iguntech.com/what.html> >> and

<< <http://www.iguntech.com/how.html> >>

The record also contains a variety of stories retrieved from the Lexis/Nexis database, where it is clear how the letter "I," especially as a prefix for trademarks affixed to "smart" products, has a readily understood meaning (emphasis supplied):

Nanao has decided to break with the tradition of using the multiplicity of switches, buttons, and dials that typically accompany high tech monitors. ***The "i" designation indicates that this monitor employs intelligent microprocessor controls*** to adjust many of the display features and to remember those adjustments after you've turned off the monitor. ("Flexscan 9400i: brains and beauty..." PC Sources, March 1991)

The engine adopts VVT-i, a continuously variable intake valve timing (***"i" is for intelligent***), signifying electronic control, which alters the intake valve timing for a maximum value of 40 [degrees] of crankshaft revolution). ("Toyota Prius; gasoline-electric hybrid car ... ," Automotive Engineering, January 1998)

Also on tap is a massive sales and marketing effort - all under the company's new **I-**

***business ("I" for intelligent)*** initiative.  
(*"Business Intelligence for E-Business,"*  
*Information Week*, October 25, 1999)

[Subaru] has updated this CVT, giving it a  
***prefix of "i," short for intelligent.*** (Tech  
Briefs, *Automotive Engineering*  
*International*, March 1, 1999)

***The "i" (for intelligent)*** digital series has  
a computer PCMCIA memory card interface and  
is an ultra-compact, ultra-thin design..  
(*"Lathes given the Latin touch,"* *What's New*  
*in Industry*, April 1998)

We conclude that the mark sought to be registered in the instant case, I GUN, is merely descriptive of applicant's firearms because the mark identifies a significant feature or characteristic of these goods. The materials made of record by the Trademark Examining Attorney make it clear that when the letter "I" is used immediately before a generic term, where that named item is "smart" (i.e., has microprocessor controls), it will readily be understood to refer to the word "intelligent."

Applicant argues that this term is at worst suggestive inasmuch as reaching any conclusions about the goods from consideration of the mark cannot be accomplished without "some thought on the part of the customer." (Applicant's appeal brief, p. 5). Applicant proposes a number of alternate words that might well be abbreviated herein by the letter "I," such as "instant" or "individual."

However, like the Trademark Examining Attorney, we do not find applicant's argument to be persuasive. The entire thrust of applicant's Web site is an emphasis on how its "iGun" is a state-of-the-art firearm having a "computer inside." As touted on its Web pages, the fact that these weapons are "intelligent" is a prominent feature of applicant's goods. Hence, a prospective purchaser of applicant's firearms who knows that these guns come "with personalized recognition parts therefor" (as the identification-of-goods clause puts it) will immediately and forthwith understand from the mark that these personalized firearms are being sold as "intelligent guns," "smart guns" or "I guns."

Applicant argues that the third-party registrations of other marks for different goods support the proposition that the mark in the instant application is not merely descriptive of the goods named in this application. It is well settled, however, that each case must be decided on its own merits, based on the record in each particular application. As the Trademark Examining Attorney points out, a mark which is merely descriptive is not somehow registrable simply because other allegedly similar marks are registered. In re Scholastic Testing Services, Inc., 196 USPQ 517 (TTAB 1977). It is true that third-party

registrations, when they are properly of record, can be useful in establishing the meanings of terms used in them, but applicant did not make of record any of the registrations it argues support the registration of its mark. The Board does not take judicial notice of registrations. In re Duofold Inc., 184 USPQ 638 (TTAB 1974).

Furthermore, as noted by the Trademark Examining Attorney, the fact that the letter "I" is registered alone for a wide variety of goods and services is largely irrelevant to the current dispute. In the context of marks for the single letter "I," we note that many of these marks, as reflected in applicant's trademark search report, are presented in a distinctive font and/or are intertwined with prominent design features within a composite, special-form drawing. Moreover, the letter "I," when presented as a lone figurative element, has an entirely different connotation from the single letter "I" when used in a composite term like I GUN (or iGun), iSolution, I-business, iCAM, iCAD, iNODE, etc. When the letter "I" is combined with other arbitrary letter strings, or with inherently distinctive suffixes (e.g., applicant's example of IMAC), it also provides no support for applicant's position. And finally, when the letter "I" is used immediately before the

common name of "dumb" goods (i.e., goods like cardboard and meat that clearly do not possess microprocessors), applicant's references to such registered mark, even if the registrations had been properly made of record, would be of little probative value in deciding the instant case.

When the mark in this application is considered in conjunction with the goods identified therein, it is clear that the mark conveys specific information about a feature or characteristic of the goods, as discussed above.

Decision: The refusal to register under Section 2(e)(1) of the Act is affirmed.